

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

UNITED STATES OF AMERICA

v.

THOMAS JOHN BOUKAMP

NO. 5:20-CR-165-H

**UNITED STATES OF AMERICA’S MOTION
FOR APPOINTMENT OF COUNSEL**

The United States of America (Government) files this Motion for Appointment of Counsel.

Up until the jury’s verdict, Thomas John Boukamp knowingly, intelligently, and voluntarily chose to represent himself. After the jury’s verdict was returned, Boukamp indicated that he no longer wished to represent himself and asked for Assistant Federal Public Defender Wade Iverson to represent him. Because the standards for waiving the right to self-representation and waiving the right to counsel are different, the Government asks that the Court refer this case to the United States Magistrate Judge for appointment of counsel.

In *Brown v. Wainwright*, 665 F.2d 607, 610-11 (5th Cir. 1982), the United States Court of Appeals for the Fifth Circuit discussed the waiver analysis for the right to self-representation versus the right to counsel:

The important distinction in the manner in which the two rights come into play requires that a different waiver analysis be applied to the right of self-representation than to the right to counsel. Unlike the right to counsel, the right of self-representation can be waived by defendant’s mere failure to assert it. If on arraignment an indigent defendant stands mute, neither requesting counsel nor asserting the right of self-representation, an attorney

must be appointed. Even if defendant requests to represent himself, however, the right may be waived through defendant's subsequent conduct indicating he is vacillating on the issue or has abandoned his request altogether.

Id. at 610-11; *United States v. Long*, 597 F.3d 720, 724 (5th Cir. 2010) ("Nevertheless, the defendant may waive his right to self-representation through subsequent conduct indicating an abandonment of the request."). Because Boukamp expressly stated that he no longer wished to represent himself, he has waived the right to self-representation and the Government requests that he be appointed counsel.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of this document was mailed to Thomas John Boukamp, SO#217527, Lubbock County Detention Center, P.O. Box 10535, Lubbock, Texas 79408.

s/ Jeffrey R. Haag
Jeffrey R. Haag
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